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7 **UNITED STATES DISTRICT COURT**

8 **DISTRICT OF NEVADA**

9
10 In re:
11 EB HOLDINGS II, INC.,
12 Debtor.

13 Chapter 11
14 Case No.: BK-S-19-16364-MKN
15 Adv. Pro. No. 20-01010-MKN

16
17 EB HOLDINGS II, INC. and QXH II, INC.,
18
19 Plaintiffs,
20 v.

21 **Case No. 2:20-cv-00461-KJD-BNW**

22 ILLINOIS NATIONAL INSURANCE
23 COMPANY, CONTINENTAL
24 CASUALTY COMPANY, FEDERAL
25 INSURANCE COMPANY, BEAZLEY
26 INSURANCE COMPANY, INC., AXIS
INSURANCE COMPANY, ACE
AMERICAN INSURANCE COMPANY,
IRONSHORE INDEMNITY INC.,
FREEDOM SPECIALTY INSURANCE
COMPANY, ARCH INSURANCE
COMPANY and ASPEN SPECIALTY
INSURANCE COMPANY,

27 Defendants.

28
29 **STIPULATED ORDER WITHDRAWING
30 PENDING MOTION**

1 IT IS HEREBY STIPULATED and AGREED, by and between Plaintiffs EB Holdings II,
2 Inc. (“EBH”), by and through its counsel, the law firm of Garman Turner Gordon LLP, QXH II,
3 Inc. (“QXH II,” and together with EBH, the “Insureds”), by and through its counsel, the law firms
4 of K&L Gates LLP and Ghandi Deeter Blackham, and Beazley Insurance Company, Inc.
5 (“Beazley”), by and through its counsel, the law firm of Christian, Kravitz, Dichter, Johnson &
6 Sluga, PLLC, as follows:

7 WHEREAS, on September 30, 2019, EBH filed its Chapter 11 bankruptcy petition in the
8 United States Bankruptcy Court for the District of Nevada (the “Bankruptcy Court”), thereby
9 commencing chapter 11 case no. 19-16364-MKN.

10 WHEREAS, on January 16, 2020, EBH and QXH II filed a *Complaint* in the Bankruptcy
11 Court, thereby commencing adversary proceeding no. 20-01010-MKN (the “Adversary”).

12 WHEREAS, on March 4, 2020, Beazley filed *Beazley Insurance Company, Inc.’s Motion*
13 *to Withdraw Reference* [ECF No. 1] (the “Beazley’s Motion to Withdraw the Reference”), thereby
14 commencing District Court case number 2:20-cv-00461-KDJ-BNW.

15 WHEREAS, on March 20, 2020, an *Order Consolidating Cases* [ECF No. 7] was entered
16 in District Court case number 2:20-cv-00461-KDJ-BNW consolidating District Court case
17 numbers 2:20-cv-00492-APG-NJK and 2:20-cv-00491-KJD-BNW with lead District Court case
18 number 2:20-cv-00461-KJD-BNW.

19 WHEREAS, on June 24, 2018, the *Stipulation Dismissing Defendant Beazley Insurance*
20 *Company, Inc. Without Prejudice* (the “Stipulation”) was filed in the Adversary. The Stipulation,
21 attached hereto as Exhibit 1, provided for the withdrawal of the Motion to Withdraw the Reference
22 and a related pleading and for the dismissal of the Insureds’ claims against Beazley *without*
23 *prejudice*.

24 WHEREAS, the Stipulation was approved by entry of the Order of the Bankruptcy Court
25 on June 25, 2020 (the “Dismissal Order”). A copy of the Dismissal Order is attached hereto as
26 Exhibit 2.

27

28

1 NOW, THEREFORE, the Insureds and Beazley hereby stipulate and agree that Beazley's
2 Motion to Withdraw the Reference is hereby withdrawn, with the parties to bear their own fees
3 and costs.

4 Dated this 25th day of June, 2020.

5 GARMAN TURNER GORDON LLP

6
7 K&L GATES LLP

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34 *Attorneys for Beazley Insurance
35 Company, Inc.*

36 IT IS SO ORDERED:

37 
38 Beazley
39 UNITED STATES DISTRICT JUDGE

40 DATED :7/7/2020

EXHIBIT 1

EXHIBIT 1

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20 **UNITED STATES BANKRUPTCY COURT**
21 **FOR THE DISTRICT OF NEVADA**

22 In re:
23 EB HOLDINGS II, INC.,
24 Debtor.

25 Chapter 11
26 Case No.: BK-S-19-16364-MKN

27 EB HOLDINGS II, INC. and QXH II, INC.,
28 Plaintiffs,
v.

Adv. Pro. No. 20-01010-MKN

ILLINOIS NATIONAL INSURANCE
COMPANY, CONTINENTAL
CASUALTY COMPANY, FEDERAL
INSURANCE COMPANY, BEAZLEY
INSURANCE COMPANY, INC., AXIS
INSURANCE COMPANY, ACE
AMERICAN INSURANCE COMPANY,
IRONSHORE INDEMNITY INC.,
FREEDOM SPECIALTY INSURANCE
COMPANY, ARCH INSURANCE
COMPANY and ASPEN SPECIALTY
INSURANCE COMPANY,

**STIPULATION DISMISSING
DEFENDANT BEAZLEY INSURANCE
COMPANY, INC. WITHOUT
PREJUDICE AND WITHDRAWING
PENDING MOTIONS**

Defendants.

1 IT IS HEREBY STIPULATED and AGREED, by and between Plaintiffs EB Holdings II,
 2 Inc. (“EBH”), by and through its counsel, the law firm of Garman Turner Gordon LLP, QXH II,
 3 Inc. (“QXH II,” and together with EBH, the “Insureds”), by and through its counsel, the law firms
 4 of K&L Gates LLP and Ghandi Deeter Blackham, and Beazley Insurance Company, Inc.
 5 (“Beazley”), by and through its counsel, the law firm of Christian, Kravitz, Dichter, Johnson &
 6 Sluga, PLLC, as follows:

7 WHEREAS, on September 30, 2019, EBH filed its Chapter 11 bankruptcy petition in the
 8 United States Bankruptcy Court for the District of Nevada, thereby commencing chapter 11 case
 9 no. 19-16364-MKN.

10 WHEREAS, on January 16, 2020, EBH and QXH II filed a *Complaint* in the United States
 11 Bankruptcy Court for the District of Nevada, thereby commencing this adversary proceeding,
 12 adversary no. 20-01010-MKN (the “Adversary”).

13 WHEREAS, on March 3, 2020, Beazley filed *Beazley Insurance Company, Inc.’s Motion*
 14 *to Withdraw Reference* [ECF No. 48] (the “Motion to Withdraw the Reference”), thereby
 15 commencing District Court case number 2:20-cv-00461-KDJ-BNW.¹

16 WHEREAS, on March 11, 2020, Beazley filed a *Joinder in Illinois National Insurance*
 17 *Company’s Motion to Dismiss Plaintiffs’ Complaint Under FRBP 12(b)(1)* [ECF No. 80] (the
 18 “Joinder”), arguing, *inter alia*, that Plaintiffs’ Complaint fails to state a justiciable cause of action
 19 for declaratory relief against Beazley because the Complaint alleges that “[t]o date, the Insureds
 20 have incurred substantial defense costs in connection with the GoldenTree Action and related
 21 litigation, including in excess of \$25,000,000 in attorneys’ fees and costs...,” and Beazley’s policy
 22 attaches in excess of underlying policies with limits of liability totaling \$50,000,000.

23 WHEREAS, Plaintiffs and Beazley have agreed to dismiss Plaintiffs’ *Complaint without*
 24 *prejudice*, subject to the understanding that Plaintiffs will seek coverage from Beazley for the
 25 claims at issue in the *Complaint* only upon an allegation by Plaintiffs of damages reaching the

26
 27

¹ A similar stipulated order is being filed in case number 2:20-cv-00461-KDJ-BNW, pending in the United States
 28 District Court for the District of Nevada.

1 attachment point of Beazley's policy; moreover, in the event that Plaintiff's decide to pursue future
2 claims against Beazley, they agree to serve Beazley with a copy of any motion to amend the
3 complaint and to allow Beazley the opportunity to file a timely response to that motion.

4 WHEREAS, the Insureds and Beazley have agreed to dismiss Beazley from the Adversary
5 *without prejudice* and to vacate all pending matters by and between them, with each party to bear
6 its own attorneys' fees and costs.

7 NOW, THEREFORE, subject to entry of an Order approving this Stipulation, the Insureds
8 and Beazley hereby stipulate and agree as follows:

9 1. Beazley withdraws its Joinder [ECF No. 80] and Motion to Withdraw the Reference
10 [ECF No. 48];

11 2. The Insureds' claims against Beazley filed in this Adversary are dismissed *without*
12 *prejudice*; and

13 3. The Insureds and Beazley shall each bear their own attorneys' fees and costs
14 incurred to date with respect to the Adversary.

15 Dated this 24th day of June, 2020.

16
17 GARMAN TURNER GORDON LLP

K&L GATES LLP

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10 Company, Inc.*

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EXHIBIT 2

EXHIBIT 2

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Honorable Mike K. Nakagawa
United States Bankruptcy Judge



5 Entered on Docket
June 25, 2020

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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA

In re:
EB HOLDINGS II, INC.,
Debtor.

Chapter 11
Case No.: BK-S-19-16364-MKN

Adv. Pro. No. 20-01010-MKN

EB HOLDINGS II, INC. and QXH II, INC.,

Plaintiffs,

v.

ILLINOIS NATIONAL INSURANCE
COMPANY, CONTINENTAL
CASUALTY COMPANY, FEDERAL
INSURANCE COMPANY, BEAZLEY
INSURANCE COMPANY, INC., AXIS

**ORDER DISMISSING DEFENDANT
BEAZLEY INSURANCE COMPANY,
INC. WITHOUT PREJUDICE AND
WITHDRAWING PENDING MOTIONS**

1 INSURANCE COMPANY, ACE
2 AMERICAN INSURANCE COMPANY,
3 IRONSHORE INDEMNITY INC.,
4 FREEDOM SPECIALTY INSURANCE
COMPANY, ARCH INSURANCE
COMPANY and ASPEN SPECIALTY
INSURANCE COMPANY,

5 Defendants.

6 Plaintiffs EB Holdings II, Inc. (“EBH”), by and through its counsel, the law firm of Garman
7 Turner Gordon LLP, QXH II, Inc. (“QXH II,” and together with EBH, the “Insureds”), by and
8 through its counsel, the law firms of K&L Gates LLP and Ghandi Deeter Blackham, and Beazley
9 Insurance Company, Inc. (“Beazley”), by and through its counsel, the law firm of Christian,
10 Kravitz, Dichter, Johnson & Sluga, PLLC, entered into that certain *Stipulation to Dismiss Beazley*
11 *Insurance Company, Inc. Without Prejudice and Withdrawing Pending Motions* (the
12 “Stipulation”).¹ Good cause appearing therefore;

13 **IT IS HEREBY ORDERED** that the Stipulation is approved in its entirety.

14 **IT IS FURTHER ORDERED** that Beazley’s Joinder [ECF No. 80] and Motion to
15 Withdraw the Reference [ECF No. 48] are withdrawn.

16 **IT IS FURTHER ORDERED** that the Insureds’ claims against Beazley filed in this
17 Adversary are dismissed *without prejudice*.

18 **IT IS FURTHER ORDERED** that the Insureds and Beazley shall each bear their own
19 attorneys’ fees and costs incurred to date with respect to the Adversary.

20 **IT IS SO ORDERED.**

21 GARMAN TURNER GORDON LLP

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28 ¹ All capitalized, undefined terms shall have the meanings ascribed to them in the Stipulation.

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